

Attorney Docket No. RAY-30133
Application No. 10/804,697
Amendment and Response

JAN 06 2005

Remarks

Claims 1-20 are pending in the application. Claims 1, 13 and 20 have now been amended. New claim 21 has been added. Claim 7 has been cancelled.

Applicant certainly appreciates the indication of allowable subject matter with respect to claims 7 and 18. Applicant has added new claim 21, which incorporates the limitations of claim 7 with those of original claim 1, and should be allowed. Claim 7 has been cancelled.

Rejections Under 35 U.S.C. §103

The Examiner has rejected the remaining pending claims 1-20 as being obvious under §103, based upon the reference Clough (U.S. Patent No. 6,310,291), and with respect to claim 12, in combination with the reference Shotey et al. (U.S. Patent No. 5,965,846).

None of the references cited and relied on by the Examiner provide a *prima facie* case of obviousness of the presently pending claims.

In order to establish a *prima facie* case of obviousness, the prior art references must teach or suggest all of the claim limitations when combined. *See In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974); and MPEP 2143.03.

Applicant's amended independent claims 1, 13 and 20 include the limitation that the forward surface of the second plate member have no substantial surface-projecting element. This is discussed in the specification, for instance, wherein it is described at paragraph 0016 that each of the plate members is a generally planar member. Further, all of the illustrations show the second plate member having a generally flush forward surface, with no substantial surface-projecting element.

The attachment 420 of Clough, which the Examiner refers to, incorporates a longitudinal element 428 that extends from the surface of the attachment 420. The criticality of this feature is further discussed at column 24, lines 12, etc., to allow the use of a locking means 800. Furthermore, in all embodiments shown and described in Clough, this longitudinal element is required and its criticality is emphasized for proper operation of the device. From the disclosure of Clough it seems readily apparent that

Attorney Docket No. RAY-30133
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these longitudinal elements project from the surface of the attachment no less than $\frac{1}{2}$ inch and probably more.

Applicant's claimed invention does not include any such substantial surface-projecting element and specifically excludes it. It should be noted that the added limitation of Applicant's claims is not meant to exclude insubstantial projections, such as small ridges, texturing or other raised areas of various patterns or configurations that may be provided on the plate member, as are discussed at paragraph 0020 of the specification. Such raised areas are distinguishable, however, from the projecting element of Clough, which is intended to be used with a locking device. Such raised areas or ridges of Applicant's invention do not and would not interfere or impede the operation of the device for which Applicant's cover plate is being used (see discussion at paragraph 0023 of Applicant's specification). This is in contrast with the attachments disclosed in Clough with the projecting longitudinal elements, which are specifically designed and configured to cooperate with a locking means to prevent use and access of the outlet on which they are used.

Accordingly, for at least this reason, Applicant submits that claims 1-6 and 8-20 should be allowed.

Additionally, Applicant's amended independent claims 1, 13 and 20 include the limitation that the second plate member be a decorative plate member. The attachment of Clough is non-decorative in nature and is solely for use for cooperating with a locking means, the criticality of which is discussed throughout the reference. For this additional reason, Applicant submits that claims 1-6 and 8-20 should be allowed.

With respect to claims 2, 3, 14, 15 and 20, the Examiner contends that Clough discloses a forward surface that is different from the other. Applicant submits that the Examiner must be referring to the vertical line shading provided on member 410 in Figure 19. This does not constitute a different forward surface or finish, however. Further, there is no motivation or suggestion to provide such a different forward surface because Clough is directed solely to the utilitarian feature of providing a locking means to prevent access to electrical switches and the like. Nothing in Clough provides any motivation or suggestion of providing a different forward surface to provide a visually perceptible contrast between any first and second plate members. Clough therefore fails

Attorney Docket No. RAY-30133
Application No. 10/804,697
Amendment and Response

in providing a *prima facie* case of obviousness with respect to this claim for this reason as well.

Claim 12 was rejected based upon the combination of Clough and Shotey et al. Shotey, however, is concerned with coupling the cover plate to the electrical outlet and not to another plate member that forms the cover plate, as in Applicant's claimed invention. Accordingly, the combination fails in providing a *prima facie* case of obviousness. The rejection with respect to claim 12, should therefore be withdrawn.

Conclusion

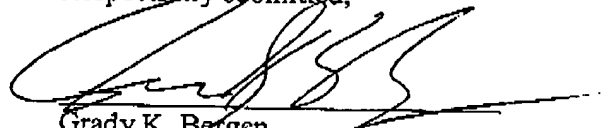
In view of all of the reasons presented above, Applicant submits that the application is in a condition for allowance. Favorable action is therefore respectfully requested.

This response is being submitted within three months from the date of the office action. If any extension of time is believed necessary, however, such extension is hereby requested. If any fees are deemed necessary for the continued prosecution of the present application, the Commissioner is hereby authorized to charge them to Deposit Account No. 50-1899.

Please contact the undersigned at the address or telephone number listed below should there be any questions, or if contacting the undersigned would expedite or aid the examination or prosecution of this application.

Date: January 6, 2005

Respectfully submitted,



Grady K. Bergen
Reg. No. 37,587
Customer No. 27883
2626 Cole Avenue
Dallas, Texas 75204
(214) 665-9568
(214) 665-9572 Facsimile

ATTORNEY FOR APPLICANT